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June 2, 2016

**VIA CMRRR 7008 2810 0002 4018 4304**

Honorable Joel Robideaux, City/Parish President  
Lafayette Consolidated Government  
P.O. Box 4017-C  
Lafayette, La 70502

**RE: NOTICE OF INTENT TO FILE CITIZEN SUIT UNDER THE CLEAN WATER ACT  
NOTICE OF VIOLATION FOR UNAUTHORIZED DISCHARGE OF SEWAGE  
INTO WATERS OF THE UNITED STATES**

Dear Mr. Robideaux:

I send this letter on behalf of my family, the Estate of Manning Francis Billeaud, Jr. and Mildred M. Billeaud. This letter serves as my client/family's formal notice to file a citizen suit against the Lafayette Consolidated Government, d/b/a the Lafayette Utilities System relative to its undisputed and unauthorized discharges of raw sewage into waters of the United States that violate Clean Water Act §301(a); 33 U.S.C. § 1311(a). Specifically, this letter provides formal notice to LUS and the Lafayette Consolidated Government for its violation of its wastewater discharge permit as is more fully described below. Although my family has made repeated requests to resolve these unlawful discharges as early as 1963, we are making one final formal notice. My family requests that, on this notice, LUS and Lafayette Consolidated Government take action to resolve its Clean Water Act Violations, described more fully below. If my client/family and Lafayette Consolidated Government are unable to work this issue out cooperatively, this letter serves as "notice of alleged violation" under 33 U.S.C § 1365(b)(1).

**FACTUAL BACKGROUND**

Since at least 1963, the City of Lafayette's sewage pipeline system has intermittently discharged raw sewage onto the private property of the estate of Manning Francis Billeaud, Jr., and Mildred Martin Billeaud, whose municipal address is 145 Girard Woods Drive, Lafayette, Louisiana, which discharge thereafter spills into the adjacent coulee, which thereafter discharges into the Vermilion River, a water of the United States protected from pollution under the Clean Water Act. These intermittent discharges have likewise occurred during this same time frame onto the property of Tom Pears, the property formerly owned by the Francis Mouton family, which property has a municipal address of 234 Girard Park Circle, Lafayette, Louisiana. The discharges from the Pears/Mouton property likewise also dumped into the coulee, which flowed into the Vermilion River, a water of the United States protected from pollution under the Clean Water Act. Also relevant is the fact that these discharges also occurred onto the property of James Diaz, whose



municipal address is 240 Girard Park Circle, Lafayette, Louisiana, which discharge likewise drained into this same concrete coulee. Finally is the fact that these discharges also flowed onto the property of Kirk and Wendy Hornung whose municipal address is 138 Girard Woods Drive, Lafayette, Louisiana, which discharge likewise drained into the same concrete coulee, which flowed into the Vermilion River. These discharges all occurred in adjacent areas, and for purposes of this notice shall be deemed or identified herein as the affected area. It is unknown whether this concrete coulee has a name, but it is undisputed that this coulee flows into Coulee Mine, which flows directly into the Vermilion River. These discharges generally occur during or after rainfall events. Specific points of unauthorized discharge from the sewerage system in this affected area include:

- 1) Sewer pipe located behind the home of Tom Pears, adjacent to the coulee and bridge;
- 2) A manhole on the property of James Diaz and/or Kirk Hornung (at the junction of the two properties next to the right of way;
- 3) Three of the four manholes on the Billeaud property adjacent to the two concrete coulees; and
- 4) A manhole on the property of Dr. Charles Olivier, at the corner of his property and the property of Mark and Christie Van Eaton.

Lafayette has not rectified nor attempted to meaningfully resolve this problem to prevent sewer discharges into the affected area as is required by both State and Federal law for approximately 53 years. Put differently, Lafayette was put on written notice of this problem in 1963, and has still refused to adequately address this problem. Unpermitted raw sewage discharges have occurred onto the Billeaud, Diaz, Hornung, Pears, Allis and Olivier properties and into waters of the United States.

### **CLEAN WATER ACT VIOLATIONS**

LUS and the Lafayette Consolidated Government is in violation of the Clean Water Act for discharging untreated raw sewage with a permit (or, alternatively, in violation of its permit) from its sanitary pipeline system in the "affected area." Under Clean Water Act § 301, 33 U.S.C. § 1311, it is unlawful for any person to discharge any pollutant from a point source into waters of the United States, except in compliance with a permit, such as a Clean Water Act § 402, 33 U.S.C. § 1342 permit.

First, these discharges violate Clean Water Act § 301, 33 U.S.C. § 1311, which prohibits any person from discharging any pollutant from a point source into waters of the United States, except in compliance with a permit, such as Clean Water Act § 402, 33 U.S.C. § 1342, NPDES permit. Here, LUS and Lafayette Consolidated Government is violating Clean Water Act § 301 because it is discharging raw sewage (a pollutant) from its sewer system [one or more point source(s)] into a tributary of the Vermilion River (waters of the United States) from an unpermitted location.

Alternatively, characterizing raw sewage discharges as bypasses of Lafayette's East WWTP (AI Number 4856) or Lafayette's Ambassador Caffery WWTP (AI Number 19464) wastewater discharge permits, the discharges are violations of those permits. Lafayette's NPDES Permit states that the permittee has a duty to comply with all conditions of the permit, and that any noncompliance constitutes a violation of the Clean Water Act.



Similarly, LUS and Lafayette Consolidated Government is violating the Clean Water Act because it is failing to properly operate, maintain, and when necessary, promptly replace its sewage pipeline collection system. Ignoring a known defect in the design of Lafayette's sewage lines, or failing to replace insufficient lines with lines which can accommodate rainwater intrusion for 53 years after complaints of discharge constitute clear violations of the Clean Water Act.

Specific violations of the Clean Water Act, which dates were recorded by Kirk Hornung are November 7, 2015, November 17, 2015, November 21, 2015, March 18, 2016 and May 23, 2016. These dates of discharge are not exclusive and do not address the discharge of sewage into the Billeaud home, as those claims constitute violations other than Clean Water Act Violations. Moreover, the history of discharges goes back to a time before 1963 and have never stopped.

### **RELIEF AVAILABLE**

My client/family as well as my neighbors have been begging for Lafayette Consolidated Government and LUS to remedy its Clean Water Act Violations without litigation. However, unless a solution and remedy is confected in writing, the undersigned advises that the Clean Water Act provides that "any citizen may commence civil action on his own behalf – (1) against ... (ii) any other governmental instrumentality or agency.... who is alleged to be in violation of (A) an effluent standard or limitation under this chapter." Clean Water Act § 505(a)(1)(A). Should my client/family file a citizen suit seeking compliance with the Clean Water Act, we will seek declaratory and injunctive relief and civil penalties. Also, under Clean Water Act § 309(d), 33 U.S.C. § 1319(d) and 40 C.F.R. § 19.4, a court may fine Lafayette Consolidated Government and/or LUS up to \$37,500.00 per day for each violation and order it to pay reasonable attorney fees.

### **CONCLUSION**

This letter sufficiently states the grounds for a complaint and satisfies the notice requirement for a citizen suit under Clean Water Act § 505(a)(1) & (b)(1)(a), 33 U.S.C. § 1365(a)(1) & (b)(1)(a), and 40 C.F.R. § 135. Those provisions provide a sixty-day waiting period before allowing the suit in federal court. This waiting period gives the parties reasonable time to resolve the matter cooperatively, without litigation.

The name, address, and phone number of the person giving notice is:

Lawrence C. Billeaud  
Attorney on behalf of the Estate of Manning F. Billeaud, Jr. and Mildred M. Billeaud  
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Please direct all correspondence and calls to:

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Respectfully submitted,

  
LAWRENCE C. BILLEAUD

cc: Loretta E. Lynch, U.S. Attorney General  
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Gina McCarthy, EPA Administrator  
Environmental Protection Agency  
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Ron Curry, EPA Region 6 Regional Administrator  
Environment Protection Agency Region 6  
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Chuck Carr Brown, Secretary  
Louisiana Department of Environmental Quality  
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Terry Huval, Director  
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**CMRRR 7008 2810 0002 4018 4328**

cc: Joel Robideaux, City Parish President, VIA EMAIL  
Paul Escott, Attorney for Lafayette Consolidated Government, VIA EMAIL  
Michael Hebert, Attorney for Lafayette Consolidated Government, VIA EMAIL